IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.985 OF 2004

The Commissioner of Income Tax .. Appellant.

V/s.

Adinath SSK Ltd., Karmala .. Respondent.

Mr.B.M. Chatterjee with Mrs.P.P. Bhosale i/by Pankaj Kapoor for the appellant.

Mr.S.N. Inamdar with Mr.A.K. Jasani for the respondent.

CORAM : F.I. REBELLO &
J.P. DEVADHAR, JJ.

DATED : 16TH JULY, 2007.

P.C. :

1. Admit. Heard forthwith.

2. The issue in this appeal is covered by the judgment of the Supreme Court in the case of Siddheshwar Sahakari Sakhar Karkhana Limited V/s. CIT and CIT V/s. Shri Chatrapati Sahakari Sakhar Karkhana Limited reported in [2004] 270 ITR 1 (SC) as followed by this Court in the case of CIT V/s. Malegaon Sahakari Sakhar Karkhana Limited reported in [2005] 279 ITR 19 (Bom).

3. The question of law as formulated in this appeal reads as under :

Whether on the facts and in the circumstances of the case and in law, the Tribunal is right in upholding the order of CIT (Appeal) deleting the additions made by the assessing officer in respect of the deduction of Rs.18,40,336/- made by assessee from cane price towards Cane Development Fund ?

Whether on the facts & circumstances of the case and in law the Tribunal was right in permitting deductions of recoveries made from cane price for Cane development fund on the principle of diversion by overriding title, even though the amount realized on this account has reached assessee as its income and no part of the same was spent / disbursed during year under appeal ?

4. In view of the aforesaid judgments, insofar cane development fund is concerned, the appeal is remanded back to the Tribunal for denovo consideration in accordance with law.

5. Impugnmed order is set aside. The appeal is allowed. There shall be no order as to costs.

(F.I. REBELLO, J.)

(J.P. DEVADHAR, J.)